

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**

Appl. No. : 10/052,164
Filed : January 17, 2002

REMARKS

Claims 1-12 and 46-66 are currently pending in the application and the Office Action rejected Claims 1-12 and 46-66. By the foregoing amendments, Applicant cancelled Claims 1-12 and 46-66 without prejudice and added new Claims 67-103 to further clarify the claimed invention and/or expedite receiving a notice of allowance. Pursuant to 37 C.F.R. §1.118, no new matter is introduced by these amendments. Applicant believes that Claims 67-103 are now in condition for allowance.

Please note that Applicant's remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited reference.

Information Disclosure Statement

The Office Action stated that the information disclosure statement filed on April 15, 2002 failed to comply with 37 CFR § 1.98(a)(2) because it failed to include a legible copy of United States Patent Nos. 5,902,197 and 5,983,602. Accordingly, Applicant is submitting herewith a legible copy of U.S. Patent Nos. 5,902,197 and 5,983,602 which were listed in the IDS. Consequently, Applicant requests that the IDS filed on April 15, 2002 be considered by the Examiner.

Appl. No. : 10/052,164
Filed : January 17, 2002

Response to the Section 112 Rejection

The Office Action rejected Claims 46-58, 59-63 and 64-66 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action asserts that the term “mounting region” is unclear and renders the claim indefinite and vague. Additionally, the Office Action asserts that the following claim terms are unclear and render the claim indefinite and vague:

Claim 46: “sized and configured to transmit one or more forces”

Claim 47, 49, 53, 54 and 59: “mounting region”

Claim 51, 52: “sized and configured to selectively connect”

Claims 55, 64 and 65: “positioned at an angle relative to the playing surface”

Claim 56, 57 and 62: “longitudinal axis” and “generally aligned”

Claim 59: “sized and configured to transmit a force”

Applicant respectfully traverses this rejection because these claim terms are not vague and indefinite under 35 U.S.C. § 112, second paragraph. The Board of Patent Appeals and Interferences stated:

In rejecting a claim under the second paragraph of 35 U.S.C. § 112, it is incumbent on the examiner to establish that one of ordinary skill in the pertinent art, when reading the claims in light of the supporting specification, would not have been able to ascertain with a reasonable degree of precision and particularity the particular area set out and circumscribed by the claims.

Appl. No. : 10/052,164
Filed : January 17, 2002

Ex parte Wu, 10 USPQ2d 2031, 2033 (B.P.A.I. 1989) (emphasis added). The Federal Circuit has similarly stated that the law is clear that if the claims, read in light of the specification, reasonably apprise those skilled in the art of the use and scope of the invention, and if the language is as precise as the subject matter pertains, the claims are definite under Section 112, second paragraph. *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634, 641 (Fed. Cir.), *cert. dismissed*, 474 U.S. 976 (1985) (emphasis added).

In this case, the claims set out and define the subject matter with a reasonable degree of particularity. For example, the Office Action stated that the term “mounting region” was unclear and that rendered some of the claims vague and indefinite. The specification, however, clearly and unambiguously discusses what is intended by the term “mounting region.” For example, the specification states:

The second ends 46 of the support struts 40, 42 may be attached to the base 18 at a first mounting region 60 and a second mounting region 62 of the base 18, respectively. Preferably, the mounting regions 60, 62 comprise thinner sections of the base 18 through which a fastener can be threaded. More specifically, each of the mounting regions 60, 62 may comprise a top indentation 64 formed in the top shell 50 and a bottom indentation 66 formed in the bottom shell 52. The indentations 64, 66 are positioned back-to-back, in abutting fashion, to form the mounting regions 60, 62.

See page 10, lines 7-13 (emphasis added). The specification also states:

The mounting regions 60, 62 may also be used to anchor the base 18 to the playing surface 20. More specifically, first and second anchoring assemblies 68, 69 may be provided to affix the first and second mounting regions 60, 62,

respectively, to the playing surface 20. The first and second anchoring assemblies 68, 69 may have a first anchor 70 and a second anchor 72, respectively, disposed within the playing surface 20 to receive a first anchoring attachment 80 and a second anchoring attachment 82 connected to the base 18.

See page 10, lines 14-19 (emphasis added). Further, the mounting regions are clearly shown in the accompanying drawings. Thus, the claims are not vague and indefinite because the term “mounting region” is discussed in detail in the specification and unambiguously shown in the drawings.

Additionally, it is well established that functional limitations may be used in the claims and functional language does not, in and of itself, render a claim improper or indefinite. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226, 229 (C.C.P.A. 1971). For example, the Office Action rejected Claim 8 by asserting that the phrases “sized and configured to transmit one or more forces” and “sized and configured to selectively connect” were indefinite. One skilled in the art, however, would understand that this claim language is precise and definite enough to provide a clear indication of the scope of the subject matter of the claim. That is, one skilled in the art would recognize that the claim limitations require that the recited element be sized and configured to transmit one or more forces or be sized and configured to selectively connect the recited elements. Thus, these limitations clearly define the claimed invention and the claim is not improper or indefinite.

Further, specific dimensions and size limitations do not have to be included in the claims. In contrast, the claims merely have to set forth reasonable precision in delineating the subject matter of the claims. The Federal Circuit has stated that “[t]he amount of detail required to be included in claims depends on the particular invention and the prior art, and is not to be viewed

Appl. No. : 10/052,164
Filed : January 17, 2002

in the abstract but in conjunction with whether the specification is in compliance with the first paragraph of section 112.” *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634, 641 (Fed. Cir.), *cert. dismissed*, 474 U.S. 976 (1985). For example, the Office Action rejected Claims 56, 57 and 62 by asserting that the phrase “generally aligned” is unclear, which renders the claim indefinite and vague. One skilled in the art, however, would understand that the phrase “generally aligned” simply means that the recited element is generally aligned. Thus, the scope of the subject matter embraced by this claim language is clear and it defines the claimed invention with a reasonable degree of clarity and precision.

The Office Action also stated that the phrase “positioned at an angle relative to the playing surface” is indefinite. One of ordinary skill in the art, however, when reading the claim in light of the supporting specification, would be able to ascertain the meaning of this claim with a reasonable degree of precision and particularity. For example, one skilled in the art would immediately understand that the recited element must be positioned at an angle relative to the playing surface. Thus, the claim language is clear to one of ordinary skill in the art.

In summary, Applicant asserts that the claim language of Claims 46-58, 59-63 and 64-66 particularly points out and distinctly claims the subject matter which Applicant regards as the invention in accordance with Section 112, second paragraph. Because the claim language defines the claimed invention, when read in light of the specification, with a reasonable degree of precision and particularity, Applicant believes that this Section 112 rejection is inappropriate. In order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant cancelled Claims 1-29 and 44-64.

Appl. No. : 10/052,164
Filed : January 17, 2002

Response to the First Rejection under 35 U.S.C. § 103(a)

The Office Action rejected Claims 1 and 3-12 under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 3,517,470 issued to Luebkeman in view of U.S. Patent No. 4,526,367 issued to Haston, et al. The Office Action contends that the Luebkeman patent discloses the elements of Claim 1, but acknowledges that it fails to clearly disclose the use of a motion facilitating member. The Office Action asserts that the Haston patent discloses the use of a motion facilitating member (24). The Office Action contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the motion facilitating member of Haston with the apparatus of Luebkeman in order to more easily move the device.

Applicant respectfully traverses this rejection because the Luebkeman and Haston patents, either alone or in combination, do not teach, suggest or disclose each and every element of Claims 1 or 3-12. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 1 and 3-13.

Response to the Second Rejection under 35 U.S.C. § 103(a)

The Office Action rejected Claims 46-52 and 54-58 under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 4,611,812 issued to Morrison in view of U.S. Patent No. 5,102,128 issued to Geise. The Office Action contends that the Morrison patent discloses the elements of Claim 46, but acknowledges that it does not clearly disclose the use of a basketball goal. The Office Action contends that the Geise patent discloses the use of a basketball goal (62, 62). The Office Action asserts that it would have been obvious to one of

Appl. No. : 10/052,164
Filed : January 17, 2002

ordinary skill in the art at the time of the invention to have employed the goal of Geise with the apparatus of Morrison in order for the players to sue the goal for a more popular game.

Applicant respectfully traverses this rejection because neither the Morrison nor Geise patents, alone or in combination, teach, suggest or disclose each and every element of Claims 46-52 or 54-58. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 46-52 and 54-58.

Response to the Third Section 103(a) Rejection

The Office Action rejected Claim 53 under 35 U.S.C. § 103(a) as being unpatentable over the cited art for Claim 46 and further in view of U.S. Patent No. 5,568,711 issued to Popp, et al. The Office Action acknowledges that the cited art fails to clearly disclose the use of a resilient member. The Office Action, however, asserts that the Popp patent discloses the use of a resilient member (20). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of the Popp patent with the apparatus in order to increase player satisfaction by providing a more secure ground support.

Applicant respectfully traverses this rejection because the cited art and the Popp patent, either alone or in combination, do not teach, suggest or disclose each and every element of Claim 53. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claim 53.

Response to the Fourth Section 103(a) Rejection

The Office Action rejected Claims 59, 60 and 62 under 35 U.S.C. § 103(a) as being unpatentable over the Morrison patent in view of the Geise patent. The Office Action states the

Appl. No. : 10/052,164
Filed : January 17, 2002

Morrison patent discloses the elements of Claim 59 but acknowledges that it fails to clearly disclose the use of a basketball goal. The Office Action contends that the Geise patent discloses the use of a basketball goal (62, 64). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the goal of Geise with the apparatus of Morrison in order for the players to use the goal for a more popular game.

Applicant respectfully traverses this rejection because the Morrison and Geise patents, either alone or in combination, do not teach, suggest or disclose each and every element of Claim 59, 60 or 62. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 59, 60 and 62.

Response to the Fifth Section 103(a) Rejection

The Office Action rejected Claims 61, 63 and 64 under 35 U.S.C. § 103(a) as being unpatentable over the cited art for Claim 59 further in view of the Popp patent. The Office Action acknowledges that the cited art fails to clearly disclose the use of a threaded fastener.

The Office Action, however, contends the Popp patent discloses the use of a threaded fastener (Figure 1). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener disclosed in the Popp patent with the apparatus in order to increase player satisfaction by providing a more secure ground support.

Applicant respectfully traverses this rejection because the cited prior art or the Popp patent, either alone or in combination, do not teach, suggest or disclose each and every element

Appl. No. : 10/052,164
Filed : January 17, 2002

of Claims 61, 63 or 64. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 61, 63 and 64.

Response to the Sixth Section 103(a) Rejection

The Office Action rejected Claims 1-12 and 46-59 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent no. 5,259,612 issued to Matherne, et al. in view of the Luebkeman patent and U.S. Patent No. 5,902,197 issued to Davis, et al. The Office Action states Matherne patent discloses the elements of Claim 1, but it fails to disclose the use of an anchoring attachment. The Office Action asserts that the Davis patent discloses it is old to secure a goal to the playing surface (3:44-49). The Office Action also asserts that the Luebkeman patent discloses an anchoring attachment (Figure 1). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkeman with the goal of the Matherne patent in order to make the device more secure during play.

Applicant respectfully traverses this rejection because neither the Matherne, Luebkeman nor Davis patents, either alone or in combination, teach, suggest or disclose each and every element of Claims 1-12 or 46-59. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 1-12 and 46-59.

Response to the Seventh Section 103(a) Rejection

The Office Action rejected Claims 60-63 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claim 59 further in view of the Popp patent. The Office Action acknowledges that the cited art does not clearly disclose the use of threaded

Appl. No. : 10/052,164
Filed : January 17, 2002

fastener. The Office Action, however, asserts that the Popp patent discloses the use of a threaded fastener (Figure 1). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of the Popp patent with the apparatus in order to increase player satisfaction by providing a more secure ground support.

Applicant respectfully traverses this rejection because neither the cited art nor the Popp patent teach, suggest or disclose each and every element of Claims 60-63. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 60-63.

New Claims

In order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant added new claims 67-103. Pursuant to 37 C.F.R. §1.118, no new matter is introduced by these amendments. Applicant believe that Claims 67-103 are now in condition for allowance and are patentable over the cited references.

Haston, et al. Patent

The Haston patent discloses a portable basketball assembly. *See, e.g.,* abstract, col. 2, lines 3-9. In particular, the Haston patent discloses a base 12 that includes “metallic, circumscribing, tubular, hexagonal frame 22 provided with a pair of juxtaposed forward wheels 24 as well as a caster wheel 26, the latter being secured to rigid mounting leg 27. In addition, a supporting plate 28 extends fore and aft of the frame 22 and is secured to the opposed ends thereof as best seen in FIG. 3. In use, a plurality of patio blocks 30, secured in place by means of

straps 32, are positioned on plate 28 in order to provide counterweight for the overall assembly.” Col. 3, lines 3-12. The Haston patent also states “[i]n operation when assembly 10 is in the collapsed condition depicted in FIG. 1, the unit is wheeled to a desired location for play, whereupon winch 102 is rotated so as to take up cable 104.” Col. 4, lines 44-47. Thus, the Haston patent discloses using a plurality of blocks that are secured in place by straps to provide a counterweight for the overall assembly.

Applicant believes that new Claims 67-103 are patentable over the Haston patent. For example, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Haston patent does not teach, suggest or disclose, *inter alia*, (1) a portable basketball goal assembly that can be secured in a fixed position relative to a surface; (2) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (3) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface. Accordingly, Applicant believe that at least Claims 67-77 are patentable in view of the Haston patent.

In addition, Claim 78 provides “a first fastener extending through an opening of the one or more openings in the first mounting region of the base, the first fastener being connected to a first retaining member to selectively connect the portable basketball goal system to the surface; and a second fastener extending through an opening of the one or more openings in the second mounting region of the base, the second fastener being connected to a second retaining member to selectively connect the portable basketball goal system to the surface.” Thus, Claim 78 positively recites that the first fastener extends through an opening in the first mounting region of the base and the first fastener is connected to a first retaining member to selectively connect the portable basketball goal system to the surface. In addition, Claim 78 positively recites that the second fastener extends through an opening of the in the second mounting region of the base and the second fastener is connected to a second retaining member to selectively connect the portable basketball goal system to the surface. Therefore, Claim 78 states that the first and second fasteners extend through openings in the first

Appl. No. : 10/052,164
Filed : January 17, 2002

and second mounting regions and the fasteners are connected to retaining members to selectively connect the portable basketball goal system to the surface.

The Haston patent, however, does not teach, suggest or disclose a first fastener that extends through an opening in a first mounting region of the base or a first fastener that is connected to a first retaining member to selectively connect the portable basketball goal system to the surface. The Haston patent also does not teach, suggest or disclose a second fastener that extends through an opening in the second mounting region of the base or a second fastener that is connected to a second retaining member to selectively connect the portable basketball goal system to the surface. Consequently, Applicant believe that at least Claims 78-83 are patentable in view of the Haston patent.

Claim 84 provides “a mounting region disposed in the base, the mounting region including one or more openings; a support strut connected to the elongated support and the mounting region of the base; and an anchoring assembly at least partially disposed within the mounting region of the base, the anchoring assembly including a fastener that extends through at least one or the one or more openings in the mounting region, the fastener being connected to a retaining member to connect the portable basketball goal system to the surface.” Thus, Claim 84 positively recites the mounting region is disposed in the base, the mounting region includes one or more openings, the support strut is connected to the elongated support and the mounting region of the base, the anchoring assembly is at least partially disposed within the mounting region of the base, the anchoring assembly includes a fastener that extends through at least one or the one or more openings in the mounting region, and the fastener is connected to the retaining member to connect the portable basketball goal system to the surface.

Appl. No. : 10/052,164
Filed : January 17, 2002

The Haston patent, however, does not teach, suggest or disclose, *inter alia*, (1) a mounting region disposed in the base; (2) a mounting region including one or more openings; (3) a support strut connected to the elongated support and the mounting region of the base; (4) an anchoring assembly is at least partially disposed within the mounting region of the base; (5) an anchoring assembly including a fastener that extends through at least one or the one or more openings in the mounting region; or (6) a fastener that is connected to a retaining member to connect the portable basketball goal system to the surface. Therefore, Applicant believe that at least Claims 84-90 are patentable in view of the Haston patent.

Claim 91 provides, *inter alia*, “a first mounting region formed in a first portion of the base; a first support strut connecting the elongated support to the first mounting region of the base; a first anchoring assembly at least partially disposed within the first mounting region, the first anchoring assembly including an anchor and an anchoring attachment, the anchor being attached to the anchoring attachment to secure the portable basketball goal system in the fixed position; a second mounting region formed in a second portion of the base; a second support strut connecting the elongated support to the second mounting region of the base; and a second anchoring assembly at least partially disposed within the second mounting region, the second anchoring assembly including an anchor and an anchoring attachment, the anchor being attached to the anchoring attachment to secure the portable basketball goal system in the fixed position.” Thus, Claim 91 positively recites a first mounting region is formed in a first portion of the base; a first support strut is connected to the elongated support and to the first mounting region of the base; and a first anchoring assembly is at least partially disposed within the first mounting region, the first anchoring assembly including an anchor and an anchoring attachment, the anchor being attached to the anchoring attachment to

Appl. No. : 10/052,164
Filed : January 17, 2002

secure the portable basketball goal system in the fixed position. Claim 91 also positively recites a second mounting region is formed in a second portion of the base; a second support strut is connected to the elongated support and to the second mounting region of the base; and a second anchoring assembly is at least partially disposed within the second mounting region, the second anchoring assembly including an anchor and an anchoring attachment, the anchor being attached to the anchoring attachment to secure the portable basketball goal system in the fixed position.

The Haston patent, in contrast, does not teach, suggest or disclose each and every element of Claim 91. Therefore, Applicant believes that at least Claims 91-103 are patentable in view of the Haston patent.

Morrison Patent

The Morrison patent discloses a ball game goal. In particular, the Morrison patent discloses a portable, elevated, ball receiving game apparatus including an upon topped, closed bottom lightweight plastic basket supported upon a single, central, elongated stem. Abstract. The Morrison patent states that pegs are provided to further secure the base into a relatively soft ground surface. Abstract. In particular, the Morrison patent states:

Base 12 has four radially extending feet 18 each having a substantially flat underside 20 and an aperture 22 adjacent the outer end. As shown in FIG. 1, the base is secured on a lawn or other irregular surface by means of L-shaped pegs 24 which pass through the aperture 22 into the ground. Goal 10 may also be used on any substantially planar hard surface such as concrete or an indoor floor.

Col. 2, lines 2-9. Therefore, the Morrison patent discloses a ball game goal using pegs that pass through apertures at the outer end of four radially extending feet to secure the base to a lawn or other surface.

Applicant believes that new Claims 67-103 are patentable in view of the Morrison patent. For example, as discussed above, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Morrison patent does not teach, suggest or disclose, *inter alia*, (1) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (2) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative

to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the Morrison patent. In addition, Applicant believes that Claims 78-103 are also patentable in view of the Morrison patent for at least the reasons discussed above.

Matherne Patent

The Matherne patent discloses a portable support for a basketball goal system. In particular, the Matherne patent discloses a portable water-filled device for supporting a basketball system including a base configured to hold a ballast material for supporting the basketball system in a substantially rigid position during use of the system to play the game of basketball. Abstract. The Matherne patent also discloses that the “base is provided with skid plates on its bottom to provide a frictional surface on the base for resting against the ground or other support surface upon which the goal system is being used.” Col. 4, lines 18-21 (emphasis added). The Matherne patent further states that “[a] set of wheels are provided at the distal end of the base which come into contact with the ground upon rotation of the goal system into the reclined position. When the goal system is in its upright position, the wheels do not contact the ground.” Col. 4, lines 25-29. The Matherne patent explains:

The base includes skid plates 74 located at both the distal and proximal ends of the base 30, as viewed in FIGS. 4 and 5. Each skid plate may be configured with grooves 75 to facilitate the manufacturing of the skid plates 74. Skid plates 74 provide a frictional contact surface for the base against the support surface 70. It is presently preferred to have skid plates 74 located at least along a portion of the distal and proximal ends of the base 30, thereby providing maximum lateral stability of the base 30. The amount of surface area of the skid plates 74 may vary, although wear on the skid plates 74 may be reduced by maximizing their surface area.

Col. 6, lines 30-38 (emphasis added). Thus, the Matherne patent discloses using skid plates for frictional contact of the base with the ground.

Applicant believes that Claims 67-103 are patentable in view of the Matherne patent. For example, as discussed above, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Matherne patent does not teach, suggest or disclose, *inter alia*, (1) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (2) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative

Appl. No. : 10/052,164
Filed : January 17, 2002

to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the Matherne patent. In addition, Applicant believes that Claims 78-103 are also patentable in view of the Matherne patent for at least the reasons discussed above.

Popp Patent

The Popp patent discloses an attachment anchor assembly for securing a component to a base material. Abstract. In particular, the Popp patent is directed to an attachment anchor assembly for securing a component on the surface of a base material by inserting an anchoring region of an anchor rod into a prefabricated borehole, filled with a curable or hardenable mass, in the base material. Col. 1, lines 3-7. The Popp patent explains that a "primary object of the present invention is to provide an attachment anchor assembly which prevents the hardenable mass from flowing over the surface of the base material laterally outwardly from the assembly when the attachment anchor is inserted into the borehole in the base material and, in addition, to prevent the hardenable mass from interfering with the function of the attachment anchor. Col. 1, lines 41-49. Additionally, the Popp patent explains:

When rail travel vehicles, not shown, pass for the first time over a rail member, not shown, of a railroad system, vertical loads are applied to the component 5, 15 or the support plate causing a vertical displacement of the component 5, 15 towards the surface of the base material U. As a result, the elastic insulation element 6, 16 is compressed in the axial direction of the anchor rod, whereby the centering sleeve 8, 18 is displaced towards the sealing surface 9a, 19a of the sealing element 9, 19.

Appl. No. : 10/052,164
Filed : January 17, 2002

Col. 4, lines 3-11 (emphasis added). Thus, the Popp patent discloses an attachment anchor assembly which prevents the hardenable mass from flowing over the surface of the base material when the attachment anchor is inserted into the borehole in the base material that is used in connection with a railroad system.

Applicant asserts that attachment anchor assemblies that prevent hardenable mass from flowing over the surface of the base material when attachment anchors are inserted into a borehole for a railroad system are not reasonably pertinent to the particular problem with which the Applicant were involved. In this case, the claimed invention is directed towards a portable basketball system that can be selectively anchored in a fixed position. One skilled in the art of portable basketball goal systems would not look to a attachment anchor assemblies that prevent hardenable mass from flowing over the surface of the base material when attachment anchors are inserted into a borehole for a railroad system because they are in different fields. In addition, the attachment anchor assemblies disclosed in the Popp patent are not analogous art and not reasonably pertinent to a basketball goal system.

Nevertheless, Applicant believes that new Claims 67-103 are patentable in view of the Popp patent. For example, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the

Appl. No. : 10/052,164
Filed : January 17, 2002

fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Popp patent does not teach, suggest or disclose, *inter alia*, (1) a portable basketball goal assembly that can be secured in a fixed position relative to a surface; (2) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (3) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the patent. For similar reasons, as discussed above, Applicant believes that Claims 78-103 are also patentable in view of the Popp patent.

Geise Patent

The Geise patent discloses a portable basketball assembly. *See, e.g.*, abstract. In particular, the Geise patent discloses portable basketball goal assembly with two sets of wheels (18 and 20) that are mounted at either end of the front box member (16) to support the front end

Appl. No. : 10/052,164
Filed : January 17, 2002

(21) of the base (12) and two sets of wheels (21 and 22) are attached to the side box members (14 and 15) to support the rear end (23) of the base (12). Col. 2, lines 47-51. The Geise patent explains that “[t]he wheel assemblies (18 through 22) enable the portable basketball goal assembly (10) to be moved easily.” Col. 2, lines 51-53. Thus, the Geise patent discloses using a plurality of wheel assemblies to allow the portable basketball goal assembly to be easily moved.

Applicant believes that new Claims 67-103 are patentable over the Geise patent. For example, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Geise patent does not teach, suggest or disclose, *inter alia*, (1) a portable basketball goal assembly that can be secured in a fixed position relative to a surface; (2) a first anchoring

Appl. No. : 10/052,164
Filed : January 17, 2002

assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (3) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the Geise patent. For similar reasons, as discussed above, Applicant believes that Claims 78-103 are also patentable in view of the Geise patent.

Davis Patent

The Davis patent discloses a foldable portable basketball assembly and the base includes one or more wheels along its front edge allowing for transportability of the folded assembly. Abstract. In particular, the Davis patent discloses “one or more wheels 11 are attached to the front end of base 10 to allow for easier movement of the folded basketball goal assembly. In the preferred embodiment two wheels are attached.” Col. 3, lines 13-16. Thus, the Davis patent discloses using wheels to allow the portable basketball goal assembly to be moved.

Applicant believes that new Claims 67-103 are patentable over the Davis patent. For example, Claim 67 provides, *inter alia*, “**a portable basketball goal assembly that can be secured in a fixed position relative to a surface**,” “a first mounting region of the base,” “a first anchoring assembly including **a fastener that extends through an opening in the first mounting region of the base** and a retaining member that is connected to the surface, **the fastener being connected to the retaining member to selectively hold the base in a fixed**

Appl. No. : 10/052,164
Filed : January 17, 2002

position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Davis patent does not teach, suggest or disclose, *inter alia*, (1) a portable basketball goal assembly that can be secured in a fixed position relative to a surface; (2) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (3) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the Davis patent. For similar reasons, as discussed above, Applicant believes that Claims 78-103 are also patentable in view of the Davis patent.

Appl. No. : 10/052,164
Filed : January 17, 2002

Luebkeman patent

The Luebkeman patent discloses an earth mount assembly comprising two parts which cooperate when assembled to insure a firmly set earth mount for the bases of outdoor vibratile devices, such as target traps, basketball stands, or the like. Col. 1, lines 20-25 (emphasis added). In particular, the Luebkeman patent discloses a mount part comprising an upstanding shank 27 adapted to be fixedly imbedded in the earth 11 through the expedient of turning it on its axis with downward pressure by a handle 29 fixed to its upper end; a screw member or auger 30 (FIG. 1) being fixed on its lower end which upon rotary movement of the shank advances itself and the shank into the earth. Col. 2, lines 43-49 (emphasis added). The Luebkeman patent explains that “[t]o firmly set the base 10 upon the surface of the earth 11 the screw member 30 on the shank 27 of the second earth anchor part 26 is first entered through the hole 12 in the base and then by manually turning and bearing downwardly upon the handle 29 the earth anchor will be screwed to its earth imbedded fixed position against axial displacement.” Col. 2, lines 65-72. Thus, the Luebkeman patent discloses an earth mount assembly with two parts that allows devices to be firmly set in the earth.

Applicant believes that new Claims 67-103 are patentable over the Luebkeman patent. For example, Claim 67 provides, *inter alia*, “a portable basketball goal assembly that can be secured in a fixed position relative to a surface,” “a first mounting region of the base,” “a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface,” “a second mounting region of the base,” and “a second anchoring assembly including a fastener that extends through an opening in the second

Appl. No. : 10/052,164
Filed : January 17, 2002

mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface.” Thus, Claim 67 positively recites that the portable basketball goal assembly can be secured in a fixed position relative to a surface. In addition, Claim 67 positively recites that the base includes first and second mounting regions, and the first and second anchoring assemblies include fasteners that extend through openings in the first and second mounting regions and the fasteners can be connected to retaining members to selectively hold the base in a fixed position relative to the surface.

The Luebkeman patent does not teach, suggest or disclose, *inter alia*, (1) a portable basketball goal assembly that can be secured in a fixed position relative to a surface; (2) a first anchoring assembly including a fastener that extends through an opening in the first mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface; or (3) a second anchoring assembly including a fastener that extends through an opening in the second mounting region of the base and a retaining member that is connected to the surface, the fastener being connected to the retaining member to selectively hold the base in a fixed position relative to the surface. Accordingly, Applicant believes that at least Claims 67-77 are patentable in view of the Luebkeman patent. For similar reasons, as discussed above, Applicant believes that Claims 78-103 are also patentable in view of the Luebkeman patent.

Appl. No. : 10/052,164
Filed : January 17, 2002

CONCLUSION

In view of the foregoing, Applicant submits that Claims 67-103 are allowable over the cited references and are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowance be promptly issued.

If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

Respectfully submitted,

WORKMAN, NYDEGGER

Dated: 2-19-04

By: Richard C. Gilmore
Richard C. Gilmore
Registration No. 37,335
Attorney of Record
Customer No. 22,913

WORKMAN, NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 533-9800
Facsimile: (801) 328-1707
E-mail: rgilmore@wnpatent.com

G:\DATA\WPDOCS3\RCG\Lifetime Products Inc\172.1 Response to OA.doc